

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Criminal No: 02-40029NMG

FILED
CLERKS OFFICE

2005 MAY 12 PM 2: 56

U.S. DISTRICT COURT
DISTRICT OF MASS

UNITED STATES OF AMERICA,

v.

TERESA M. SMITH,
Defendant

DEFENDANT'S MOTION TO AMEND MOTION UNDER 28 USC SECTION 2255 TO
VACATE, SET ASIDE, OR CORRECT SENTENCE

Now comes the Defendant, Teresa M. Smith, and respectfully moves this Honorable Court to allow her to amend her Motion Under 28 USC Section 2255 to Vacate, Set Aside or Correct Sentence previously filed on or about December 29, 2004 and docketed March 2005 to add the attached Inmate Progress Report dated March 19, 2005. As grounds for said Motion, Defendant states:

1. In the recent Supreme Court ruling in the case of United States v. Booker, 04-104 (U.S. 2005) it was held that the Federal Sentencing Guidelines must be treated as advisory only and that the Court has the discretion to consider other factors which were previously deemed "forbidden" or "irrelevant" under the Guidelines;

2. It has further been held in Goldings v. Winn, 383 F. 3d 17 (1st Cir. 2004) that a halfway house is a "place of imprisonment" and that the Bureau of Prisons may place inmates in halfway houses at any point in their sentences, rather than limiting such placement to the final ten percent of an inmate's sentence.

3. The Intensive Confinement Center (Boot Camp) program recommended by the Court at Defendant's sentencing has been terminated by the Bureau of Prisons due to budget cuts and constraints and is not longer an option to the Defendant, thereby increasing her current time incarcerated in prison as opposed to a halfway house/ home confinement and impacting the nature and severity of her sentence in contravention of the Court's intention.

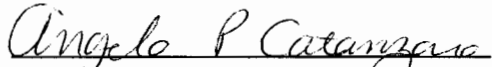
4. The Defendant's work record and conduct have been outstanding. For the past fourteen months she has been working in Puppies Behind Bars, a program that trains inmates to raise puppies to become guide dogs for the blind and explosive detection dogs for law enforcement. She also works part-time as an orderly and with the new inmate orientation

program. During the past 18 months she has completed seven pre-release classes as well as the "Life in the Fast Lane", a group class that teaches inmates to take responsibility for their choices and teaches new and positive ways of making decisions. Additional details of Defendant's rehabilitative progress while in prison are contained in Progress Report of the Federal Bureau of Prisons dated March 19, 2005 attached hereto and incorporated herein as Exhibit A.

WHEREFORE, the Defendant, Teresa M. Smith, respectfully requests this Court allow Defendant to amend her Motion as aforesaid to include the facts and exhibits as set forth above.

Date: May 10, 2005

Respectfully Submitted,
The Defendant,
By Her Attorney,


Angelo P. Catanzaro (BBO# 078960)
Catanzaro and Allen
100 Waverly Street
Ashland, MA 01721
(508) 881-4566